

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARK I. SOKOLOW ET AL.,

Plaintiffs,

04 Civ. 397 (GBD)

-against-

ORDER

PALESTINIAN LIBERATION ORG., ET AL.,
Defendants.

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GEORGE B. DANIELS, District Judge:

Plaintiffs moved for default upon defendants' failure to answer or otherwise respond to the complaint. Defendants have substantively opposed plaintiffs' motion for the entry of default judgment, arguing that this Court lacks subject matter jurisdiction to consider plaintiffs' claims.


An entry of default judgment is appropriate "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules" Fed. R. Civ. P. 55(a). "[D]efaults are generally disfavored and are reserved for rare occasions." Enron Oil Corp. v. Diakuhara et al., 10 F.3d 90, 96 (2d Cir. 1993). Where as here, a defendant opposes a plaintiff's motion for a default judgment, the district court should consider three factors: (1) whether, and to what extent, the default was willful; (2) whether defendants have a meritorious defense; and (3) whether denying a default judgment would cause prejudice to the plaintiff. Credit Lyonnais Securities (USA) v. Alcantara, 183 F.3d 151, 154 (2d Cir. 1999). Having considered these factors, this Court finds that the granting of a default judgment prior to a full review and determination of its subject matter jurisdiction is unwarranted.

Accordingly, plaintiffs' motion for default judgment is denied without prejudice. This Court will fully consider the parties' complete submissions and arguments on the issue of jurisdiction. It will then determine whether this case should be dismissed for lack of subject

matter jurisdiction, or whether judgment of default should be entered if defendants otherwise willfully decline to defend this case on its merits.

Dated: New York, New York
August 4, 2006

SO ORDERED:



GEORGE B. DANIELS
United States District Judge